

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RANDOLPH WAYMAN,	§
	§
Defendant Below,	§ No. 403, 2021
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1303015823 (K)
	§
Appellee.	§

Submitted: February 22, 2022

Decided: March 9, 2022

Before **VAUGHN, TRAYNOR**, and **MONTGOMERY-REEVES**, Justices.

ORDER

After careful consideration of the notice to show cause and the responses to the notice to show cause, it appears to the Court that:

(1) On December 20, 2021, the appellant, Randolph Wayman, filed a notice of appeal from a Superior Court order, dated and docketed on November 2, 2021, modifying his October 29, 2021 violation of probation sentence. Under Supreme Court Rule 6, a timely notice of appeal should have been filed on or before December 2, 2021. The Senior Court Clerk issued a notice directing Wayman to show cause why this appeal should not be dismissed as untimely filed.

(2) In his responses to the notice to show cause, Wayman states that he contracted COVID-19 on November 19, 2021 and was transferred to the COVID-19

tier of another prison (James T. Vaughn Correctional Center) where he did not have his property and could not access the law library. He also states that he could not send anything out while quarantined for COVID-19. The State contends that Wayman cannot show that his failure to file a timely notice of appeal is attributable to court-related personnel. According to the State, Wayman could send mail and had access to the law library through written correspondence or a tablet while he was at the James T. Vaughn Correctional Center.

(3) Time is a jurisdictional requirement.¹ A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.² An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.³ Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.⁴

(4) Wayman has not shown that his failure to file a timely notice of appeal is attributable to court-related personnel.⁵ Consequently, this case does not fall

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Supr. Ct. R. 10(a).

³ *Smith v. State*, 47 A.3d 481, 486-87 (Del. 2012).

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁵ See, e.g., *Parker v. State*, 2021 WL 4495821, at *1 (Del. Sept. 30, 2021) (dismissing untimely appeal where inmate claimed his appeal was late because he lacked education regarding the law and COVID-19 restrictions interfered with his access to the prison law library); *Christmas v. State*, 2013 WL 1397131, at *1 (Del. Apr. 3, 2013) (dismissing untimely appeal where inmate stated that

within the exception to the general rule that mandates the timely filing of a notice of appeal, and this appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, under Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Gary F. Traynor
Justice

he was unable to go to prison law library and obtain the necessary forms until after the appeal deadline passed).